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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado corporation; ORACLE AMERICA, INC., a Delaware corporation; and ORACLE INTERNATIONAL CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation; SETH RAVIN, an individual,

Defendants.

CASE NO. 2:10-cv-0106-LRH-PAL

PLAINTIFFS ORACLE USA, INC., ORACLE AMERICA, INC. AND ORACLE INTERNATIONAL'S PROPOSED ADDITIONAL OR MODIFIED JURY INSTRUCTIONS

Plaintiffs Oracle USA, Inc., Oracle America, Inc. and Oracle International Corporation ("Oracle") respectfully submit the attached additional or modified proposed post-trial jury instructions, and withdraws certain previous proposed jury instructions.

DISCUSSION

The parties jointly presented agreed post-trial jury instructions (numbered **J-12** to **J-45**). Dkt. No. 750. Oracle also submitted proposed post-trial instructions that Rimini disputes (numbered **P-7** to **P-48**). Dkt. No. 752. In the course of initial jury instruction briefing, Oracle submitted additional proposed instructions (numbered **P-50** to **P-52**) as alternatives to certain of Rimini's proposed instructions. Dkt. No. 768 at 31, 38-39, 57.

In light of developments at trial, Oracle proposes the following additional or modified proposed post-trial jury instructions, and withdraws certain previous proposed jury instructions.

First, in light of the Court's careful attention to TomorrowNow issues and limiting of the evidence concerning TomorrowNow, Oracle proposes a modified TomorrowNow instruction that does nothing more than state the prohibited Rule 404(a) propensity inference. Oracle's new proposal is **P-10B**, a replacement for the original P-10.

Second, in order to streamline presentation to the jury, Oracle will not submit to the jury its claim for trespass to chattels or its claim for Defendants' direct breaches of contract. For that reason, the following instructions are no longer relevant: **J-38** and **J-39**, **P-44** and **P-45** (and Rimini's corresponding proposals **D-39** to **D-41**, Dkt. No. 738-1 at 48-50).

Third, that decision also requires updating Oracle's proposed instructions on the interference torts instructions (*i.e.*, inducing breach of contract and intentional interference with prospective economic advantage) because Oracle will not proceed with trespass to chattels as a predicate wrongful act. Oracle provides updated instructions **P-24B** and **P-25B** to replace Oracle's original proposed P-24 and P-25.

Fourth, Oracle proposes a new jury instruction, **P-53**, to prevent any jury confusion concerning the marketing survey discussed in Mr. Rowe's testimony. Tr. 2399:3-2401:18; *see also* 2378:17-2381:12 (sustaining related objection).

Finally, Oracle presents **P-54** to **P-56**, which are license instructions in light of the parties' trial contentions and presentations. In a pre-trial ruling, the Court held that "an instruction interpreting the various Oracle software licenses is appropriate and will help clarify the issues for the jury," that "construing the scope of a license is principally a matter of contract interpretation," and that "it is undisputed by the parties that the terms sought to be interpreted are unambiguous." Dkt. 719 at 6. However, the Court explained that it was "premature to settle the exact language of the jury instructions until the Court has heard all the arguments and considered all the evidence." Dkt. 719 at 7. At trial, Richard Allison of Oracle testified about the key contract terms for PeopleSoft, J.D. Edwards, and Siebel licenses and was cross-examined about them. In addition, Seth Ravin testified about his knowledge and understanding of the license agreements. No further testimony or evidence as to the content of the license terms is expected. Accordingly, the determination of the disputed jury instructions is now ripe.

DATED: September 30, 2015

BOIES SCHILLER & FLEXNER LLP

By: /s/ *Kieran P. Ringgenberg*
Kieran P. Ringgenberg
Attorneys for Plaintiffs
Oracle USA, Inc., Oracle America, Inc., and
Oracle International Corp.

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P-10B. TOMORROWNOW EVIDENCE

You may not use evidence concerning TomorrowNow to infer that, because of his or her character, Seth Ravin or any individual employed by Rimini Street did the things that Oracle contends.

Authority: FRE 404(b).

You may not use evidence concerning TomorrowNow to infer that, because of his or her character, Seth Ravin or any individual employed by Rimini Street did the things that Oracle contends.

JURY INSTRUCTION NO. ____

P-24B. INDUCING BREACH OF CONTRACT

In addition to its other claims, Oracle contends that Rimini Street induced customers to breach their contracts with Oracle. Specifically, Oracle contends that the terms of use on its website are contracts with its customers. Oracle contends that Rimini Street intentionally caused Oracle customers to breach their contracts with Oracle.

To prevail on this claim in the circumstances of this case, Oracle must prove each of the following for each such contract by a preponderance of the evidence:

1) A valid contract existed between Oracle and a customer;

2) Rimini Street knew the contract existed;

3) Rimini Street intentionally engaged in conduct designed to disrupt the contract by means of one or more of the following: (a) fraud, that is, a deceit which, whether perpetrated by words, conduct, or silence, is intentionally designed to cause a reasonable person to rely upon it, and which does cause reliance; or (b) by violating the computer-related statutes I will explain in a moment (that is, the CFAA, NCCL, or CDAFA);

4) Rimini Street did so with the intent to disrupt the contract;

5) Such conduct did in fact disrupt the contract; and

6) Such conduct was a substantial factor in causing Oracle harm.

If you find that Oracle proved each of these elements, you should find for Oracle and against Rimini Street on the claim for inducing breach of contract. If, on the other hand, Oracle has failed to prove any of these elements, you should find for Rimini Street and against Oracle on the claim for inducing breach of contract.

Authority: Nevada Jury Instructions (Civil) No. 15CT.25 (2011) (modified to reflect parties and circumstances of the case; for clarity and specifically to limit the conduct the jury may consider so as to reduce juror confusion and make additional instructions re wrongfulness, privilege, or justification unnecessary); CACI 2200 (2015) (modified to reflect parties and circumstances of

the case; for clarity and specifically to limit the conduct the jury may consider so as to reduce juror confusion and make additional instructions re wrongfulness, privilege, or justification unnecessary); Restatement (Second) Torts, § 768 & cmt. (d) (competitor's fraud cannot be privileged or justified); *Crockett v. Sahara Realty Corp.*, 95 Nev. 197, 199 (1979) (conduct by a competitor that is "wanton, malicious, and unjustifiable" or that is not "fair and reasonable" is not privileged or justified); (modified); *Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1159 (2003) (competitor's conduct that violates law satisfies conduct element); Federal Jury Practice and Instructions § 16:08 (Criminal) (West 2015) (definition of fraud; added elements expressing requiring reliance and causation from fraud).

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JURY INSTRUCTION NO. ____

P-25B. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

In addition to its other claims, Oracle contends that Rimini Street and Seth Ravin intentionally interfered with economic relationships between Oracle and customers that probably would have resulted in an economic benefit to Oracle.

To prevail on this claim in the circumstances of this case, Oracle must prove each of the following for each such customer by a preponderance of the evidence:

1) Oracle had an expectancy in a prospective contractual relationship with the customer;

2) A Defendant knew of the existence of the relationship;

3) The Defendant interfered with the relationship by one or more of the following means: (a) fraud, that is, a deceit which, whether perpetrated by words, conduct, or silence, is intentionally designed to cause a reasonable person to rely upon it, and which does cause reliance; or (b) by violating the computer-related statutes I will explain in a moment (that is, the CFAA, NCCL, or CDAFA);

4) The Defendant did so with the intent to interfere with or disrupt the relationship; and

5) Such conduct was a substantial factor in causing Oracle harm.

If you find that Oracle proved each of these elements as to a Defendant, you should find for Oracle and against the Defendant on the claim for intentional interference with prospective economic advantage. If, on the other hand, Oracle has failed to prove any of these elements as to a Defendant, you should find for the Defendant and against Oracle on the claim for intentional interference with prospective economic advantage.

Authority: Nevada Jury Instructions (Civil) No. 15CT.26 (2011) (modified to reflect parties and circumstances of the case; for clarity and specifically to limit the conduct the jury may consider so as to reduce juror confusion and make additional instructions re wrongfulness, privilege, or justification unnecessary); Restatement (Second) Torts, § 768 & cmt. (d) (competitor's fraud

cannot be privileged or justified); CACI 2202 (2015) (modified); *Crockett v. Sahara Realty Corp.*, 95 Nev. 197, 199 (1979) (conduct by a competitor that is "wanton, malicious, and unjustifiable" or that is not "fair and reasonable" is not privileged or justified); *Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1159 (2003) (competitor's conduct that violates law satisfies conduct element); CACI 2202 (2015) (modified to reflect parties and circumstances of the case; for clarity and specifically to limit the conduct the jury may consider so as to reduce juror confusion and make additional instructions re wrongfulness, privilege, or justification unnecessary); *Crockett v. Sahara Realty Corp.*, 95 Nev. 197, 199 (1979) (conduct by a competitor that is "wanton, malicious, and unjustifiable" or that is not "fair and reasonable" is not privileged or justified); (modified); *Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1159 (2003) (competitor's conduct that violates law satisfies conduct element); Federal Jury Practice and Instructions § 16:08 (Criminal) (West 2015) (definition of fraud; added elements expressing requiring reliance and causation from fraud).

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1) Oracle had an expectancy in a prospective contractual relationship with the customer;

2) A Defendant knew of the existence of the relationship;

3) The Defendant interfered with the relationship by one or more of the following means: (a) fraud, that is, a deceit which, whether perpetrated by words, conduct, or silence, is intentionally designed to cause a reasonable person to rely upon it, and which does cause reliance; or (b) by violating the computer-related statutes I will explain in a moment (that is, the CFAA, NCCL, or CDAFA);

4) The Defendant did so with the intent to interfere with or disrupt the relationship; and

5) Such conduct was a substantial factor in causing Oracle harm.

If you find that Oracle proved each of these elements as to a Defendant, you should find for Oracle and against the Defendant on the claim for intentional interference with prospective economic advantage. If, on the other hand, Oracle has failed to prove any of these elements as to a Defendant, you should find for the Defendant and against Oracle on the claim for intentional interference with prospective economic advantage.

JURY INSTRUCTION NO. ____

P-53. CUSTOMER SURVEYS.

You heard witnesses testify about customer satisfaction surveys. You may not consider a survey as evidence that the survey results are true. You may only consider the testimony regarding the witnesses' impressions of the surveys and actions taken as a result of the survey.

Authority: FRE 702, 802; Tr. 2378:19-2381:10, 2401:5-18; *see also M2 Software, Inc. v. Madacy Entm't*, 421 F.3d 1073, 1087 (9th Cir. 2005) (upholding exclusion of survey where creator "did not qualify as an expert on designing or analyzing consumer surveys"); Manual for Complex Litigation § 11.493 (4th ed. 2004) (survey evidence admission requires foundation in "expert testimony" and "disclosure of the underlying data and documentation"); *United States v. Arteaga*, 117 F.3d 388, 396 (9th Cir. 1997) ("customer-supplied information" is "hearsay within hearsay").

You heard Defendants' witness Mr. Rowe testify about his understanding of a customer satisfaction survey kept by Rimini Street. You may not consider that survey or the results of that survey as evidence that the survey results are true. You may only consider Mr. Rowe's testimony regarding his impressions of the survey and actions he took as a result of the survey.

JURY INSTRUCTION NO. ____

P-54. COPYRIGHT DEFENSE—LICENSE.

Where Defendants assert a license defense to copyright infringement, it is the Defendants' burden to prove by a preponderance of the evidence the existence of a specific license provision that authorized each individual copy or other infringing work that Rimini Street made. If Defendants satisfy this burden, then it becomes Oracle's burden to prove by a preponderance of the evidence that Rimini Street's copying or other infringement was not authorized by the express license.

Rimini Street does not assert any licenses of its own with Oracle relevant to the issues you are deciding. As you heard at trial, Oracle enters into written license agreements with its customers that allow the customers to use copyrighted Oracle software, and have access to support materials for that Oracle software. Defendants claim that the customer license agreements authorized Defendants' copying of J.D. Edwards and Siebel software and documentation.

As I will explain in further detail, there is no license defense as to PeopleSoft software and documentation and Oracle Database software.

In addition, if no customer license existed at the time of copying, then there is no license defense as to that copying.

Authority: Order at 3, Dkt. 719 ("First, the court notes that Oracle's proposed instruction, or language similar to that proposed by Oracle, fairly and accurately sets forth the parties' evidentiary burdens."); *see also Bourne v. Walt Disney Co.*, 68 F.3d 621, 631 (2d Cir. 1995) (a defendant accused of copyright infringement bears the burden of producing evidence of a license); *Michaels v. Internet Ent. Group, Inc.*, 5 F. Supp. 2d 823, 831 (C.D. Cal. 1998) (same); Order at 6, Feb. 13, 2014, Dkt. 474 ("As the party alleging the affirmative defense, Rimini has the initial burden to identify any license provision(s) that it believes excuses its infringement."); Order at 6, Aug. 12, 2014, Dkt. 476 (same).

Where Defendants assert a license defense to copyright infringement, it is the Defendants' burden to prove by a preponderance of the evidence the existence of a specific license provision that authorized each individual copy or other infringing work that Rimini Street made. If Defendants satisfy this burden, then it becomes Oracle's burden to prove by a preponderance of the evidence that Rimini Street's copying or other infringement was not authorized by the express license.

Rimini Street does not assert any licenses of its own with Oracle relevant to the issues you are deciding. As you heard at trial, Oracle enters into written license agreements with its customers that allow the customers to use copyrighted Oracle software, and have access to support materials for that Oracle software. Defendants claim that the customer license agreements authorized Defendants' copying of J.D. Edwards and Siebel software and documentation. As I will explain in further detail, there is no license defense as to PeopleSoft software and documentation and Oracle Database software.

P-55. PEOPLESOFT AND ORACLE DATABASE INFRINGEMENT.

This Court has previously ruled that Rimini Street has infringed Oracle's PeopleSoft and Oracle Database copyrights. You are instructed that Rimini Street is liable for copyright infringement of PeopleSoft software and documentation and Oracle Database software as to all copies Rimini Street made on its computers systems and all copies Rimini made not solely for a particular licensee. Your sole responsibility with respect to Oracle's copyright infringement claim against Rimini Street as to copying PeopleSoft software and documentation and Oracle Database software is to determine whether that infringement was willful and the amount of damages Rimini Street owes.

Authority: As to Oracle Database, the Court has expressly held as a matter of law that Oracle has prevailed on its claim of copyright infringement. *See* Dkt. 476, at 15 ("[N]either of Rimini's asserted licenses (the Developer License or its clients' OLSAs) expressly authorize its copying of Oracle's copyrighted Oracle Database software as a matter of law. Therefore, the court finds that Oracle is entitled to summary judgment on both its claim of copyright infringement as it relates to Oracle Database and Rimini's second affirmative defense for express license as it relates to Oracle Database."). As to PeopleSoft, Oracle's proposed instruction follows from the Court's February 13, 2014 summary judgment order and Rimini's stipulation that it will not assert an express-license defense for PeopleSoft, and that all PeopleSoft licenses at issue in this case are "identical or similar" to the licenses construed in that summary judgment order.[1] Dkt. 599 at 1-2. The Court ruled that the PeopleSoft licenses for the City of Flint and Pittsburgh Public Schools did not "expressly authorize Rimini's copying of Oracle's copyrighted PeopleSoft-branded software as a matter of law." Dkt. 474, at 15, 20.

It is appropriate to explain the Court's ruling because *Rimini*'s counsel exposed every

[1] The PeopleSoft licenses construed by the Court have been admitted into evidence. *See* PTXs 698 (City of Flint), 699 (Pittsburgh Public Schools).

juror to the Court's ruling in voir dire by proposing the following question, which the Court propounded in substantially the same words: "Defendants already have been found by the Court to have infringed certain Oracle copyrights, but other claims of copyright infringement remain unresolved in the case and will require determination by you the jury. [. . .]"). Dkt 735 at 5; *see also* Tr. 75:1-9 ("The defendants in this case have been found by the Court to have infringed certain Oracle copyrights [. . . .]"). Moreover, *Rimini* witnesses referenced the Court's decisions —unsolicited—when they testified about the license agreements and Rimini's infringement. *E.g.*, Ravin Tr. at 546:14-547:1 ("And he says in the middle, 'Also, something to be aware of that we are using development Oracle software that I don't think is licensed.' He was correct; right? A. [By Ravin] No, it was licensed. We -- but according to the judge's ruling, we were outside the scope of the license, yes."); Maddock Trial Tr. 1399:17-25 & 1404:19-1405:3 (testifying twice about "the Court rul[ing] in February 2014").

The proposed instruction explains that Rimini has infringed Oracle's copyrights as to PeopleSoft documentation. It is undisputed that Rimini has copied PeopleSoft documentation, and Rimini Street has not and cannot show at trial that it has any more right to copy that documentation than it did the PeopleSoft software. Documentation is thus subject to the same license construction that the Court provided on summary judgment. *See, e.g.*, PTX 698, at 5 (defined term "Software" includes "Documentation"), *id.* at 1, Section 1.1 (license grant for "Software" limited to "solely for Licensee's internal data processing operations at its facilities"); *see also* Order, Dkt. 474 at 12 ("Oracle asserts, and the court agrees, that Section 1.2(b)(i), which authorizes a reasonable number of copies for 'use in accordance with the terms set forth herein' is subject to the licensing restrictions outlined in Section 1.1 of the City of Flint's license [PTX 698]. A 'use in accordance with the terms set forth herein' necessarily means that use of the licensed software under this provision is subject to all other licensing restrictions identified in the same main section, in this case Section 1 of the City of Flint's license."). Together with Rimini Street's stipulation as to the uniformity or similarity of PeopleSoft licenses, the Court's prior ruling establishes Rimini's liability for copyright infringement as to Oracle's PeopleSoft documentation, and the jury should be instructed accordingly. PTX5328.

This Court has previously ruled that Rimini Street has infringed Oracle's PeopleSoft and Oracle Database copyrights. You are instructed that Rimini Street is liable for copyright infringement of PeopleSoft software and documentation and Oracle Database software as to all copies Rimini Street made on its computers systems and all copies Rimini made not solely for a particular licensee. Your sole responsibility with respect to Oracle's copyright infringement claim against Rimini Street as to copying PeopleSoft software and documentation and Oracle Database software is to determine whether that infringement was willful and the amount of damages Rimini Street owes.

JURY INSTRUCTION NO. ____

P-56. MEANING OF LICENSE AGREEMENTS.

I will now instruct you regarding the terms of the license agreements in this case. It is my duty as the judge to instruct you as to what the license agreements did and did not allow. You must follow my instructions regarding the meaning of the license agreements.

You may not determine that the license agreements have some other meaning based on any evidence or argument that you have heard during the trial.

As to PeopleSoft software and documentation, I instruct you that the licenses prohibited Rimini Street from copying, preparing derivative works from, or distributing PeopleSoft software or support materials other than to support the specific licensee's own internal data processing operations on the licensee's own computer systems. Any copying, preparation of derivative works, or distribution outside the scope of those limitations was prohibited by the license agreements. This means that the licenses prohibited Rimini Street from, among other things, copying, preparing derivative works from, or distributing PeopleSoft software or support materials on Rimini Street's computer systems. It also means the licenses prohibited Rimini Street from copying, preparing derivative works from, or distributing PeopleSoft software or support materials in developing or testing software updates for other Rimini Street customers.

As to Siebel and J.D. Edwards software and documentation, I instruct you on two points.

First, the licenses prohibited Rimini Street from copying Siebel and J.D. Edwards software or support materials other than to support the specific licensee's own internal data processing operations on the licensee's computer systems. This means that the licenses prohibited Rimini Street from, among other things, copying Siebel and J.D. Edwards software or support materials to support another Rimini Street customer.

Second, some of the licenses permitted Rimini Street to make a reasonable number of copies of the Siebel and J.D. Edwards software and documentation on Rimini Street's computer systems exclusively for archival, emergency back-up, or disaster recovery purposes of the licensee. An archival, back-up, or disaster recovery copy of the software is an unmodified copy of the software for use in the event that the production copy of the software (the copy used on a customer's systems) is corrupted or lost. This means that the licenses that allowed archival,

back-up, or disaster recovery copies prohibited Rimini Street from, among other things, modifying the software and documentation or copying the software and support materials on Rimini Street's computer systems for any non-archival, -backup, or -disaster recovery purposes.

Authority: Oracle's second proposed instruction explains to the jury the contours of the licenses as the Court interpreted them on summary judgment. *See* Dkt. 723, at 5 ("any interpretation of the software licenses is an issue of law for the court to determine").

The instruction addresses the PeopleSoft license terms. This is necessary to clarify their meaning for the jury in light of the testimony by Mr. Ravin about his claimed understanding of the PeopleSoft license terms, *e.g.*, Tr. 632:24-633:9 (Ravin), and the cross-examination of Richard Allison suggesting to the jury that the terms mean something other than they say, *e.g.*, Tr. 1075:14-1079:1 (questioning Allison about PTX 3657, a Bausch and Lomb license agreement).

In addition, the instruction explains the scope of the Siebel and J.D. Edwards licenses,[2] which is necessary in order for the jury to determine whether Rimini's copying was permitted. The proper legal interpretation of those licenses is supplied by the Court at summary judgment. The Court construed the Siebel license before it to permit Rimini to make a reasonable number of copies for "archival, emergency backup, or disaster-recovery testing" purposes. Dkt. 474, at 24. The Court provided a clear explanation of those terms, which would be helpful to the jury. Dkt. 474, at 11 ("an archival or backup copy of the software - which is inherently an unmodified copy of the software for use in the event that the production copy of the software (the copy used on a customer's systems) is corrupted or lost"). The other Siebel licenses at issue in this case contain terms that carry the same limitations (or are even more restrictive). *See* PTX 5466, at 1.

[2] The Siebel and J.D. Edwards licenses construed by the Court have been admitted into evidence. PTX 704 (Giant Cement), PTX 705 (Novell). Richard Allison testified as to the similarity of the licenses for other customers at to the key terms. Tr. at 848:17-860:3; PTX 5466 (Siebel license terms); PTX 5467 (J.D. Edwards license terms).

As to J.D. Edwards, the Court interpreted the license before it to allow Rimini to make copies for the licensee's "archival purposes." Dkt. 474, at 22. However, because many of the J.D. Edwards licenses at issue in this case allow for disaster-recovery and emergency back-up purposes, *see* PTX 5466, at 2, Oracle's proposed instruction – to ensure a fair and neutral instruction on the law – adopts the Court's more permissive Siebel-license interpretation. Dkt. 474, at 24 (copies allowed if made for "archival, emergency backup, or disaster-recovery testing").

I will now instruct you regarding the terms of the license agreements in this case. It is my duty as the judge to instruct you as to what the license agreements did and did not allow. You must follow my instructions regarding the meaning of the license agreements.

You may not determine that the license agreements have some other meaning based on any evidence or argument that you have heard during the trial.

As to PeopleSoft software and documentation, I instruct you that the licenses prohibited Rimini Street from copying, preparing derivative works from, or distributing PeopleSoft software or support materials other than to support the specific licensee's own internal data processing operations on the licensee's own computer systems. Any copying, preparation of derivative works, or distribution outside the scope of those limitations was prohibited by the license agreements. This means that the licenses prohibited Rimini Street from, among other things, copying, preparing derivative works from, or distributing PeopleSoft software or support materials on Rimini Street's computer systems. It also means the licenses prohibited Rimini Street from copying, preparing derivative works from, or distributing PeopleSoft software or support materials in developing or testing software updates for other Rimini Street customers.

As to Siebel and J.D. Edwards software and documentation, I instruct you on two points.

First, the licenses prohibited Rimini Street from copying Siebel and J.D. Edwards software or support materials other than to support the specific licensee's own internal data processing operations on the licensee's computer systems. This means that the licenses prohibited Rimini Street from, among other things, copying Siebel and J.D. Edwards software or support materials to support another Rimini Street customer.

Second, some of the licenses permitted Rimini Street to make a reasonable number of copies of the Siebel and J.D. Edwards software and documentation on Rimini Street's computer systems exclusively for archival, emergency back-up, or disaster recovery purposes of the licensee. An archival, back-up, or disaster recovery copy of the software is an unmodified copy of the software for use in the event that the production copy of the software (the copy used on a customer's systems) is corrupted or lost. This means that the licenses that allowed archival, back-up, or disaster recovery copies prohibited Rimini Street from, among other things,

modifying the software and documentation or copying the software and support materials on Rimini Street's computer systems for any non-archival, -backup, or -disaster recovery purposes.

JURY INSTRUCTION NO. ____